

In the Matter of License No. 309743 Merchant Mariner's Document No.
Z-980810-D1 and all other Seaman Documents
Issued to: Charles F. Browne, Jr.

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1414

Charles F. Browne, Jr.

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 11 March 1963, an Examiner of the United States Coast Guard at Philadelphia, Pennsylvania revoked Appellant's license as Master and his merchant mariner's document upon finding that he was physically incompetent. The specification found proved alleges that Appellant suffers periods of unconsciousness which occur without warning at infrequent intervals. Prior to the hearing, the last of these attacks was on 10 December 1962 while Appellant was serving as Mate on board the tug JUSTINE.

At the hearing, Appellant was represented by non-professional counsel. Appellant entered a plea of guilty to the specification and the charge of incompetence.

The Investigating Officer introduced in evidence medical reports which indicate that Appellant has averaged one of these attacks each year for the past six years; they occur without warning, last ten to twenty minutes, leave no after effects, and the cause has not been determined after extensive tests and examinations; there is a possibility that this condition can be cured; Appellant is 42 years of age and has 11 children.

On appeal, counsel submits that because the medical reports indicate Appellant's condition is of a temporary nature, a fair and equitable order would be a suspension until Appellant can show that he is "fit for sea duty". Counsel also points out that, since the statute permits either a suspension or revocation and the regulations provide for a voluntary deposit of documents with the Coast Guard pending a determination by the Public Health Service that the seaman is fit for sea duty, no harm could result from the suggested type of order.

APPEARANCE: Sol C. Berenholtz, Esquire, of Baltimore, Maryland,
of Counsel.

OPINION

One of the difficulties of treating this case on the same basis as when there is a voluntary deposit is evident from the fact that a Public Health Service physician decided Appellant was "fit for duty" although knowing that Appellant had these periods of unconsciousness. As stated by the Examiner and Doctor Ornsteen, it would not be safe for Appellant or others if Appellant served on vessels under these circumstances, particularly since there is no way of knowing when these attacks will occur. Dr. Ornsteen stated, in his report, that Appellant should be placed on suppressive medication for at least two years even though Appellant does not have another attack in the interim.

I agree with the Examiner that the potential danger is too great at this time to impose any order other than revocation. This does not mean that Appellant is necessarily deprived of going to sea permanently. He may apply for a new license, as provided for in 46 Code of Federal Regulations 137.13, in March 1964 or thereafter at such time as he can show that this condition is cured. If such an application is submitted, I shall determine whether or not a new license and merchant mariner's document will be issued to Appellant.

ORDER

The order of the Examiner dated at Philadelphia, Pennsylvania, on 11 March 1963, is AFFIRMED.

E. J. ROLAND
Admiral, United States Coast Guard
Commandant

Signed at Washington, D. C., this 10th day of September 1963.